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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314			RUMP, RICHARD M	
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1 RECORD OF ORAL HEARING

2
3 UNITED STATES PATENT AND TRADEMARK OFFICE

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6 BEFORE THE BOARD OF PATENT APPEALS
7 AND INTERFERENCES
8

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10 *Ex parte* OLEG STENZEL, STEFAN UHRLANDT,
11 HANS-DETLEF LUGINSLAND, and ANDRE WEHMEIER
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14 Appeal No. 2010-000219
15 Application No. 10/523,029
16 Technology Center 1700
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19 Oral Hearing Held: June 10, 2010
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22 Before CHARLES F. WARREN, CATHERINE Q. TIMM, and
23 STEPHEN WALSH, *Administrative Patent Judges*.
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25 APPEARANCES:

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28 ON BEHALF OF THE APPELLANT:
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1 The above-entitled matter came on for hearing on Thursday, June 10,
2 2010, commencing at 2:25 p.m., at the U.S. Patent and Trademark Office,
3 600 Dulany Street, Alexandria, Virginia, before Christine L. Loeser, Notary
4 Public.

5 JUDGE WARREN: Good afternoon, Mr. Pitlick.

6 MR. PITLICK: Good afternoon, Judge Warren.

7 JUDGE WARREN: In this case, as you know, sir, you have 20 minutes.
8 You may proceed when ready.

9 MR. PITLICK: Okay. Thank you. Before I get into the meat of the
10 argument, I want to point out in that in our Appeal Brief, we pointed out in
11 terms of related appeals, we didn't think there were any that would actually
12 have a direct effect, would be directly affected by this particular case but we
13 thought it might have a bearing on the Board's decision.
14 I don't know whether the Board has been updated on that particular appeal.

15 JUDGE TIMM: We have.

16 MR. PITLICK: You have, okay. So you don't need to see the decision. But
17 at any rate --

18 JUDGE TIMM: That's the decision of April 12th, 2010?

19 MR. PITLICK: Yes.

20 JUDGE TIMM: On 2010-000024?

21 MR. PITLICK: Yes.

22 JUDGE TIMM: We have that.

23 MR. PITLICK: Again, before I get into the meat of the argument here, you
24 can at least see that the claims were similar. There was a difference in the
25 sears number but there was an overlap in the other features of the claim and
26 the rejection over Uhrlant, et al., was the same.

1 Let's focus on this particular case. We have one rejection, one of
2 obviousness over Uhrlant, et al. As we have argued, this really is a selection
3 invention.

4 We discovered that in a narrower or at least partially narrower and
5 somewhat overlapping version of the various parameters of Uhrlant, et al.,
6 that when you use these particular silicas, precipitated silicas, to fill what we
7 are generically calling commercial tires, trucks, motorbikes, high
8 performance automobiles, that when you use a precipitated silica with these
9 parameters, you get improved properties, particularly something that we
10 refer to as tear resistance, T-E-A-R, which is measured by a Die-C,
11 D-I-E-capital-C, test and we have comparative data in two Declarations
12 under 37 C.F.R. 1.132 of Dr. Wayne Meyer which basically shows that the
13 tear resistance is higher compared to what Dr. Meyer finds and it is a
14 question of fact. It's the closest prior art of Uhrlant which is example 4.
15 Quite frankly, the Examiner has pretty much not treated the showing on the
16 merits other than saying that one of the examples in the Second Declaration
17 was, I'm paraphrasing, I think she said close to or not that much higher than
18 example 4, but I think we have shown a trend that, at least operating within
19 the parameters of our claims, you get a superior tear strength which could
20 not have been predicted by Uhrlant, et al.

21 That is the gist of the argument. We have pretty much incorporated by
22 reference everything in the Appeal Brief and Reply Brief. If you have any
23 questions, I will do my best to answer them.

24 JUDGE TIMM: No questions.

25 JUDGE WALSH: No questions.

26 JUDGE WARREN: No questions. Thank you very much, counselor.

1 Whereupon, the proceedings, at 2:28 p.m., were concluded.

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